UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---X
KARLA LEON,   :
                         Plaintiff,   :
                                      :
               -against-   :   18 Civ. 10983 (LGS)
                                      :
                                      :   <u>ORDER</u>
CLEANSOURCE INC., et al.,   :
                         Defendants.   :
-- X

LORNA G. SCHOFIELD, District Judge:

WHEREAS, the Order dated August 29, 2019 (the "Settlement Approval Order"),

approved the parties' settlement agreement pursuant to *Cheeks v. Freeport Pancake House, Inc.*,

796 F.3d 199, 206-07 (2d Cir. 2015). The Settlement Approval Order did not explicitly retain

jurisdiction over the settlement and did not incorporate the settlement's terms. The Settlement

Approval Order included the language that, "[i]n light of the settlement, the Clerk of Court is

respectfully directed to close this case." After the Settlement Approval Order was issued, the

Clerk of Court closed the case.

WHEREAS, on July 14, 2024, Plaintiff moved for entry of judgment and for the Court to

enforce the settlement agreement.

WHEREAS, the July 29, 2024, Order denied Plaintiff's motion because the Court had not

retained jurisdiction over the settlement when it approved the parties' executed FLSA settlement

and advised Plaintiff that she would have to seek enforcement in a court with jurisdiction.

WHEREAS, on August 11, 2024, Plaintiff moved for reconsideration of the July 29,

2024, Order.

WHEREAS, "[a] party may move for reconsideration and obtain relief only when the

party identifies an intervening change of controlling law, the availability of new evidence, or the

need to correct a clear error or prevent manifest injustice." *Cho v. Blackberry Ltd.*, 991 F.3d

155, 170 (2d Cir. 2021).[1] "The standard for granting such a motion is strict, and reconsideration

will generally be denied unless the moving party can point to controlling decisions or data that

the court overlooked -- matters, in other words, that might reasonably be expected to alter the

conclusion reached by the court." *Id.* The decision to grant or deny a motion for reconsideration

rests within "the sound discretion of the district court." *Aczel v. Labonia*, 584 F.3d 52, 61 (2d

Cir. 2009); *accord Suarez v. United States*, No. 17 Civ. 133, 2022 WL 1078436, at *2 (S.D.N.Y.

Apr. 11, 2022). A motion for reconsideration "is not a vehicle for relitigating old issues,

presenting the case under new theories, securing a rehearing on the merits, or otherwise taking a

second bite at the apple." *Analytical Survs., Inc. v. Tonga Partners, L.P.*, 684 F.3d 36, 52 (2d

Cir. 2012); *accord Dill v. JPMorgan Chase Bank, N.A.*, No. 19 Civ. 10947, 2021 WL 3406192,

at *11 (S.D.N.Y. Aug. 4, 2021). "[C]ourts will not address new arguments or evidence that the

moving party could have raised before the decision issued." *Banister v. Davis*, 590 U.S. 504,

508 (2020); *see also Suarez*, 2022 WL 1078436, at *2 ("A motion for reconsideration is neither

an occasion for repeating old arguments previously rejected nor an opportunity for making new

arguments that could have been previously advanced.").

WHEREAS, the motion for reconsideration is construed to seek reconsideration based on

clear error. However, the July 29, 2024, Order correctly concluded that the Settlement Approval

Order resulted in the Court's lacking jurisdiction over disputes regarding the enforcement of the

settlement agreement.

WHEREAS, Plaintiff first argues that a stipulation of dismissal was not filed, the

Settlement Approval Order did not dismiss the case and the Settlement Approval Order's

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[1] Unless otherwise indicated, in quoting cases, all internal quotation marks, emphases, footnotes
and citations are omitted, and all alterations are adopted.

directive to the Clerk of Court to close the case was merely an administrative formality. The

argument that the stipulation of dismissal was never filed was previously raised in Plaintiff's

motion for entry of judgment and was rejected by the July 29, 2024, Order. The Settlement

Approval Order did dismiss the case because it did not leave any claims or issues "open,

unfinished or inconclusive." *U.S. ex rel. Polansky v. Pfizer, Inc.*, 762 F.3d 160, 163 (2d Cir.

2014) (explaining that evaluating whether an order is a final order depends on a "practical rather

than a technical" assessment). In an analogous situation, the Second Circuit held that a FLSA

settlement approval order, despite the parties having never filed a stipulation of dismissal,

resulted in a final order for the purpose of appeal where it was clear that the parties and the order

intended to dismiss the case. *Fisher v. SD Prot. Inc.*, 948 F.3d 593, 599 n.4 (2d Cir. 2020).

WHEREAS, here, the Settlement Approval Order approved the settlement, and no claims

remained unresolved. The settlement agreement includes language stating that Plaintiff

understands that she will not receive any of the settlement consideration until she has executed

the agreement and discontinued the case with prejudice. It also states that Plaintiff releases all

claims against Defendants. This language -- suggesting that the agreed upon next step prior to

payment was dismissal -- and the fact that approval of the settlement agreement disposed of all

pending claims support the conclusion that the Court and parties intended to dismiss the case

after approval of the settlement, as was the case in *Fisher*. *See also Charney v. Wilkov*, 734 F.

App'x 6, 9 (2d Cir. 2018) (summary order) (finding a final judgment for the purpose of appeal

where "the district court closed the case without intimating an intent to take any further action as

to the undecided claims").

WHEREAS, other courts in this district have also considered FLSA cases to be dismissed

after approval of a settlement and without a stipulation of dismissal. *See, e.g.*, *Banegas v.*

Mirador Corp., No. 14 Civ. 8491, 2021 WL 1022614, at *3 (S.D.N.Y. Mar. 17, 2021); *Melchor*

v. Eisen & Son Inc., No. 15 Civ. 113, 2016 WL 3443649, at *11 (S.D.N.Y. June 10, 2016). In

Melchor, the court approved a settlement agreement using the language, "Given the Court's

approval of the parties' settlement, the Clerk of Court is directed to close this case on the Court's

docket." 2016 WL 3443649, at *12. The plaintiffs later contended that the dismissal was

premature because the settlement agreement had not yet been executed, and the court agreed and

reopened the case, but at no time was there a dispute that the approval of settlement dismissed

the case. *Id.* at *11-12. Likewise, in *Banegas*, the court approved a settlement agreement using

the language, "Finding the settlement, in its present form, fair and reasonable, the Court hereby

approves the settlement," but without other language to close or dismiss the case. Memorandum

& Order, *Banegas v. Mirador Corp.*, No. 14 Civ. 8491 (S.D.N.Y. May 17, 2017), ECF No. 34, 1.

The case was then terminated by the Clerk of Court. Plaintiff moved to enforce the settlement,

and the court held that there appeared to be no jurisdiction over enforcement because jurisdiction

was not explicitly retained in the order; the court did not question that the approval order

dismissed the case. *Banegas*, 2021 WL 1022614, at *2-3. Both *Melchor* and *Banegas* further

support the proposition that an order approving a FLSA settlement serves to dismiss the case,

even without explicit dismissal language and without the filing of a stipulation of dismissal.

WHEREAS, Plaintiff cites inapposite cases to argue that this case has not been

dismissed. Plaintiff cites cases about orders issued after the parties were sent to arbitration,

which hold that the closure was an administrative convenience that did not result in dismissal of

the case or a final order for the purposes of appeal. *See Filanto, S.p.A. v. Chilewich Int'l Corp.*,

984 F.2d 58, 61 (2d Cir. 1993); *Bernardino v. Barnes & Noble Booksellers, Inc.*, 763 F. App'x

101, 103 (2d Cir. 2019) (summary order). In both cases, the claims before the court remained

unresolved until the conclusion of the arbitration, and the court interpreted the motions as

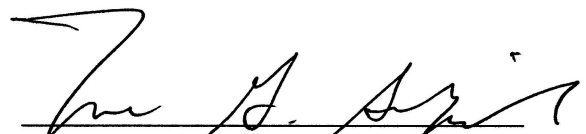motions to stay and not to dismiss the cases. *Filanto, S.p.A*, 984 F.2d at 61 (noting the defendant

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moved to stay pending arbitration and the district court had not yet adjudicated the complaint); *Bernardino*, 763 F. App'x at 103-04 (noting that "the district court repeatedly made clear that it interpreted [the] motion as a motion to stay all proceedings pending arbitration" and that "a district court is required to enter a stay when a party has so requested and all claims have been referred to arbitration"). Here, the claims are not unadjudicated, and unlike in the arbitration context, nothing suggests that the parties intended to seek a stay instead of dismissal when they sought court approval of their settlement agreement.

WHEREAS, Plaintiff also argues that the Court never lost jurisdiction because the Court approved the settlement agreement, which contains language reflecting the parties' intent for the Court to retain jurisdiction over enforcement of the settlement. This argument is unpersuasive as it is well settled that a court cannot enforce a settlement agreement absent an independent basis for jurisdiction. *Hendrickson v. United States*, 791 F.3d 354, 358 (2d Cir. 2015); *accord Lei v. Haryin Inc.*, 644 F. Supp. 3d 1, 3-4 (S.D.N.Y. 2022). A court has such jurisdiction if it "either (1) expressly retain[s] jurisdiction over the settlement agreement, or (2) incorporate[s] the terms of the settlement agreement in the order." *Hendrickson*, 791 F.3d at 358. A court's "mere awareness and approval of the terms of the settlement agreement do not suffice to make them part of his order." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381 (1994); *accord Lei*, 644 F. Supp. 3d at 4 (collecting cases). The Settlement Approval Order here neither expressly retained jurisdiction nor incorporated the terms of the settlement. The Court lacks jurisdiction to enforce the settlement agreement. It is hereby

ORDERED that Plaintiff's motion for reconsideration is DENIED.

The Clerk of Court is respectfully directed to close the motion at Dkt. 55.

Dated: August 23, 2024
        New York, New York

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LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE